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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/662,181	09/14/2000	Richard J. McCurdy	L10389	2443

7590 01/30/2004

EXAMINER
CHEN, BRET P

ART UNIT	PAPER NUMBER
1762	

Philip S Oberlin
Marshall & Melhorn
Four Seagate Eighth Floor
Toledo, OH 43604

DATE MAILED: 01/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No.	Applicant(s)	
	09/662,181	MCCURDY ET AL.	
	Examiner	Art Unit	
	B. Chen	1762	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2. ☐ The proposed amendment(s) will not be entered because:

   (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);

   (b) ☐ they raise the issue of new matter (see Note below);

   (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.

4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☒ The a)☐ affidavit, b)☐ exhibit, or c)☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: *of the reasons listed on the following pages*.

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☐ For purposes of Appeal, the proposed amendment(s) a)☐ will not be entered or b)☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: _____.

   Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a)☐ approved or b)☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). _____.

10. ☐ Other: _____

The Request for Reconsideration dated 10/27/03 has been considered but has not been deemed persuasive for the following reasons:

Withdrawn portions

Applicant first argues that the terms "first major surface" and "opposite major surface" mean the bottom and top surfaces of the glass ribbon and are not new matter (p.2 3rd paragraph).

The examiner agrees and will withdraw this portion of the rejection.

Applicant next argues that one skilled in the art would know the diffusion of tin in the presently claimed glass float ribbon is inherent and cites two references (pp.2-3).

The examiner agrees and will withdraw this portion of the rejection.

Applicant next argues that the term "annealing ... in air" is not new matter and cites Figure 1 (pp.6-7).

The examiner agrees and will withdraw this portion of the rejection.

Applicant next argues that several phrases are not new matter as they are conventional aspects of float glass processes (pp.7-8).

The examiner agrees and will withdraw this portion of the rejection.

Applicant next argues that the thickness of 1300 A is supported in Example 5 of Table 1 (p.8).

The examiner agrees and will withdraw this portion of the rejection.

Applicant next argues that the "glass sheet" is not deemed new matter that a continuous glass ribbon is in fact a glass sheet (p.9).

The examiner agrees and will withdraw this portion of the rejection.

Also, the 112 2nd paragraph rejection is withdrawn in light of the applicant's explanation on pp.9-10.

Maintained portions

Applicant next argues that the titanium dioxide is in the crystalline phase as supported by the McCurdy Declaration (pp.3-5). In addition, applicant next argues that the term "photocatalytically-activated self-cleaning coating" is not new matter and relies on a series of experiments in the McCurdy Declaration (pp.5-6). Additionally, applicant next argues that the cleaning reaction rates are not new matter as they are merely calculated from the samples of Example 1 as demonstrated in the McCurdy Declaration (p.9).

The McCurdy Declaration states that experimentation was conducted (paragraph 6) by coating float glass with titanium oxide in accordance with claim 1 (paragraph 7). The results were analyzed for crystallinity (paragraph 8), self-cleaning (paragraph 9), and photocatalytic activity (paragraphs 10-11). In addition, from these results, a reaction rate was calculated (paragraph 12).

As mentioned in the previous office action, it should be noted that there were variations (albeit deemed minor by the applicant in line 3) and this may result in the claimed characteristics. Applicant has not rebutted the examiner's position. Regardless, the applicant has not utilized the same line speed or the use of a silica coating as that or the original specification and hence, may have produced different results. There is no conclusive evidence that these did not produce the claimed characteristics. It should be noted that nowhere in the McCurdy application is there any mention that the above parameters would not indeed influence the claimed properties.

Assuming that it could be established that the claimed characteristics would be inherent to the claimed process, it is noted that the claims as presently written do not recite these limitations. Applicant would need to include these specific parameters in order for the new matter rejection to be withdrawn. It is noted that applicant will only have established that this specific example produced a self-cleaning product and it is only proper to use such a phrase to be descriptive of the specific example. There is no indication in this application that at the time of filing that the applicant was in possession of the general concept of producing a self-cleaning surface. Therefore, using the expression of self-cleaning other than as a characteristic of this very specific example would constitute new matter.

Again, as previously mentioned in the previous office action, the applicant has merely mentioned substrate transportation technique, a silica coating, specific precursors and carrier gas, substrate and precursor temperature, line speed, mixture, mixer, and volume percent composition. There is no mention of the annealing properties including rate, temperature, atmosphere, heating source nor is there any mention of substrate purity, substrate crystallinity, processing pressure, precursor purity – any or all of which can account for the claimed characteristics. MPEP 2163.07 (a) states that to establish inherency, the extrinsic evidence must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient. *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999).

Applicant next argues that the term "dimensionally stable" simply refers to the glass float ribbon having dimensions (thickness and width) which are stable as a result of a ribbon cooling and is conventional to a float glass process and thus not new matter (p.7).

The examiner disagrees. It is first noted that nowhere in the original specification is there any mention of such a limitation. It should also be noted that nowhere in the cited references is there mention of same. Applicant has not established that it is conventional that the glass would be dimensionally stable upon cooling.

Applicant next argues that "said silica layer inhibits migration of sodium ions is not new matter and cites US Patent 6,265,076 and a textbook (p.8).

It is first noted that US Patent 6,265, 076 states that "barrier layers may be utilized to prevent the migration of alkali metal ions from the glass substrate into the film" and that "the barrier layer is ... about 100-200 angstroms thick" (col.3 lines 30-37). The textbook reads that "a 200 A thick silica film is ... sufficient to prevent ... most of the alkali ions at the glass surface from migrating into a ... deposited TiO_2 film (p.109).

It should be noted that nowhere in the instant claim is there any recitation of a glass substrate. Hence, there is no reason for the skilled artisan to believe that a barrier layer could prevent migration of sodium ions from any article of manufacture. Furthermore, the applicant requires a thickness of 339 angstroms. There is no mention that the barrier properties would still exist at that thickness. Hence, the arguments are not commensurate in scope with the claims as presently written.

Applicant's arguments have been considered but are not deemed persuasive.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to B. Chen whose telephone number is (571) 272-1417. The examiner can normally be reached on 7:30am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shrive Beck can be reached on (571) 272-1415. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Bc
1/16/04

B. Chen

BRET CHEN
PRIMARY EXAMINER